The Pay Equity Hearings Tribunal

Annual Report
2011-2012

PEHT Annual Report 2011-2012

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Mandate

The Pay Equity Commission (the "Commission") was established by section 27 of the *Pay Equity Act, 1987*, c.34 and is continued by subsection 27(1) of the *Pay Equity Act*, R.S.O. 1990, c.P.7 as amended (the "*PEA*"). The Commission consists of two separate, independent parts: the Pay Equity Hearings Tribunal (the "Tribunal") and the Pay Equity Office. The Tribunal is an adjudicative agency of the Government of Ontario responsible for adjudicating disputes that arise under the *PEA*. Pursuant to section 28(1) of the *PEA* the Tribunal is a tripartite board, composed of the Chair (Presiding Officer), a number of Vice-Chairs (Deputy Presiding Officers), and Members, equal in number, representative of employers and employees.

The Tribunal deals exclusively with issues arising under the *PEA*. The Tribunal has exclusive jurisdiction to determine all questions of fact or law that arise in any matter before it. The decision of the Tribunal is final and conclusive for all purposes. Decisions of the Tribunal cannot be appealed but may be judicially reviewed.

Mission Statement

The purpose of the *PEA* is to redress systemic gender discrimination in compensation for work performed by employees in female job classes. Its implementation contributes to a fairer and more productive workplace. The goals of the *PEA* can best be achieved through the co-operation of employers, bargaining agents and employees. The Tribunal is committed to encouraging settlement between the parties. The Tribunal is also committed to a hearing process that balances the need to be fair, accessible, economical and efficient.

Organizational Structure

The Ontario Labour Relations Board (the "OLRB") provides administrative and institutional support to the Tribunal. The Tribunal benefits from the sophisticated administrative and legal support, as well as information technology, at the OLRB, and the potential to take advantage of the expertise of its mediators. While the Tribunal has its own complement of Vice-Chairs and Members, the Tribunal Chair, all of the Vice-Chairs and one of the current Members are cross appointed to other tribunals ensuring that the Tribunal is staffed with experienced decision-makers at a cost that is shared with other tribunals.

The Tribunal also participates in a broader, shared-services arrangement with the OLRB and the Workplace Safety and Insurance Appeals Tribunal. These adjudicative agencies share: printing and production, hearing and meeting rooms and common library services.

Names of Appointees and Terms of Appointments

NAME	CROSS-APPOINTED	POSITION	FIRST APPOINTED	TERM EXPIRES
Gee, Diane	OLRB/PSCRB	Chair	August 1, 2008	July 31, 2013
McKellar, Mary Anne	OLRB/HRTO	Vice-Chair	September 1, 1992	Jan 23, 2017
Rowan, Caroline	OLRB/HRTO	Vice-Chair	June 2, 2010	June 1, 2014
Bickley, Catherine	HRTO	Member (Employee)	April 26, 2000	April 1, 2013
Stewart-Rose, Diane		Full-Time Member (Employer) Part-Time Member (Employer)	April 3, 2002 April 3, 2004	April 2, 2003 April 2, 2013
Kelly, Patrick	OLRB/PSCRB	Vice-Chair	May 17, 2008	May 16, 2013
Carla Zabek		Member (Employer)	April 4, 2012	April 3, 2014
Ann Burke		Member (Employer)	April 4, 2012	April 3, 2014

Operational Performance

Upon receipt of an application, the Tribunal sends out to the parties a Confirmation of Filing confirming that the application has been filed, providing the Tribunal file number and advising the parties of the date by which a response must be filed. A confirmation of filing was sent out by the Tribunal in all applications filed in 2011-12.

There were 21 active files that carried over from the 2010-11 fiscal year; the same number as was carried over from the 2009-10 fiscal year. Of those 21 files, eight were disposed of in the 2011-2012 fiscal year having been open for periods ranging from 2.25 to 6.5 months.

The Tribunal received 18 new applications in the 2011-2012 fiscal year; a slight decrease from previous years. From 2007-08 to 2010-11 the Tribunal received between 22 and 24 new applications each year.

During the 2011-12 fiscal year, the Tribunal scheduled 22 pre-hearing conferences and wrote 57 interim or final decisions. The Tribunal disposed of 21 applications. Three applications were granted; four dismissed; three terminated and 11 settled.

With respect to the adjudication of disputes, the Tribunal continues to encourage the parties to resolve their disputes without the need for adjudication. Almost every case that involves more than a single party is scheduled by the Tribunal for a Pre-Hearing Conference with the Tribunal Chair or a Vice-Chair where one of the objectives is to explore with the parties opportunities to settle all or a part of the dispute.

In order to increase its efficiency and reduce the parties' costs, the Tribunal continues its efforts to reduce the number of days it takes to adjudicate a matter. The Tribunal is

increasingly encouraging and directing the parties to identify any preliminary issues to be raised well in advance of the hearing with a view to determining these matters on the basis of written submissions. Further, the Tribunal is increasingly using Pre-Hearing Conferences and/or case management meetings to organize and streamline the issues in dispute so that a matter can be adjudicated as efficiently as possible. In addition, parties are increasingly being asked to exchange detailed submissions and documents well in advance of a hearing in order to make better use of available hearing time. It has been the Tribunal's experience that requiring the exchange of detailed submissions and documents in advance of the hearing not only serves to reduce hearing time but also facilitates the parties' ability to resolve some or all of the dispute.

The Tribunal has also begun to address the issue of the parties frequently agreeing to extend the time limits for the filing of submissions and/or adjourn set hearing dates. When this occurs, applications remain outstanding for unacceptable periods of time. The Tribunal is attempting to discourage adjournments except where compelling circumstances arise.

Caseload Statistics

	Caseload			Disposed of					
Fiscal Year	Total	Pending April 1	Received Fiscal Year	Total Disposed of	Granted	Dismissed	Terminated	Settled	Pending March 31
2011-12	39	21	18	21	3	4	3	11	21
2010-11	35	13	22	16	4	3	5	4	21
2009-10	50	28	22	37	8	4	1	24	13
2008-09	48	25	23	20	0	4	0	16	28
2007-08	34	12	22	9	2	1	0	6	25
2006-07	25	10	15	13	3	4	0	6	12
2005-06	16	5	11	6	3	2	0	1	10
2004-05	5	0	5	0	0	0	0	0	5

Definition of Terms:

1) Granted means that the application was, in whole or in large part, successful.
2) Dismissed means that the application was, in whole or in large part, not successful.
3) Terminated means that the application was not granted, dismissed or settled but was terminated at the parties' request or for administrative reasons such as the file remaining dormant.
4) Settled includes all cases where the parties, either with or without the assistance of the Tribunal, settled the dispute, as well as cases that were adjourned.

Financial Performance

In accordance with the Ministry of Labour's Delegation of Financial Authority Framework, financial authority is delegated to the Tribunal. The Chair is required to ensure that public funds are used with integrity and honesty. The Tribunal's operating budget is included in the Ministry of Labour's estimates and allocations process, and the Tribunal is required to report to the Ministry each quarter with respect to its expenditures and planned future financial commitments.

Each year, the Tribunal verifies through a Certificate of Assurance, that all of its transactions are reflected accurately and completely in the Public Accounts of Ontario, which are the annual financial statements.

Expenditure Category	2011/12 Final Budget	2011/12 Actual Expenditure	Variance $	Variance Explanation
Salary & Wages	421.7	421.9	(0.2)	
Employee Benefits	38.0	37.9	0.1	
Transportation & Communication	16.9	5.7	11.2	*Fewer out of town hearings*
Services (including lease)	58.8	62.5	(3.7)	*Lease costs increase*
Supplies & Equipment	5.2	0	5.2	*Included in OLRB expenses*
Total	**540.6**	**527.9**	**12.7**	*2.3% budget constraint achieved*